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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/343,696	06/30/1999	TONY PERVAN	003300-339	8240

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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/343,696

Applicant(s)

PERVAN, TONY

Examiner

Yvonne M. Horton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23 is/are allowed.
- 6) ☒ Claim(s) 1,3-6,9,11-15,17,20-25,27,29-31,33-36,38,40 and 41 is/are rejected.
- 7) ☒ Claim(s) 2,7,8,10,16,18,19,26,28,32,37,39,42 and 43 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

Claims 1,3-6,9,11,13-15,17,20-22,24,25,27,29-31,33-36,38,40 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #4,819,932 to TROTTER, Jr.

Regarding claims 1,21,22 and 31, TROTTER, Jr. discloses the use of a joint between building panels (21,23,25) wherein the building panels (21,23,25) include first and second edges connected in a first direction (perpendicular to the longitudinal plane of the panels (21,23,25) by a first mechanical connection (47,49) and a second mechanical connection consisting of a locking strip (33) having a locking element (35,39) projecting from the strip (33) and groove (43) that extends parallel to and is spaced from the first edge of the building panels (21,23,25) to receive the locking element (35,39) such that a play exists between the locking groove (43) and a locking surface of the locking element (39), column 4, lines 19-21, to enable mutual displacement of the panels (21,23,25) such that the second mechanical connection enables the locking element (39) to leave the locking groove (43) as the panel (21,23,25) is turned (rotated, column 4, line 19) away from the locking strip (33). TROTTER, Jr. discloses the basic claimed joint arrangement except for the strip being integral with the second edge of the panel. Although the strip of TROTTER, JR. is a separate piece from the building panels, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form that which was previously formed as one piece in to several pieces is within the general skill of a worker

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in the art. Furthermore, the applicant is reminded that patentability is based upon the final product formed. Integral does not constitute a "one-piece" article. Once the strip is fastened or attached to the building panels, the two components are "integral". In reference to claims 3 and 20, TROTTER, Jr. the locking element (39) extends from the front side of the locking strip (33); however, TROTTER, Jr. is silent with regards to the height thereof. It would have been obvious to one having ordinary skill in the art at the time the invention was made to select a known locking element height suitable for the use intended as an obvious matter of design choice. Regarding claim 4, the first mechanical connections (47,49) is provided by engaging the first edge between the second edge of the panels (21,23,25) and a front side of the strip (33). In reference to claims 5, 24, 33 and 35, the strip (33) is made from a material (springy) that is different from the material (wood) of the building panels (21,23,25). In further reference to the strip (33) being mounted at the factory, the applicant is reminded that the method of forming a device is not germane to the issue of patent ability of the device itself. Hence, in apparatus claims, it is the final product that is given patentable consideration. In further regards to claim 35, Although the strip of TROTTER, JR. is a separate piece from the building panels, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form that which was previously formed as one piece in to several pieces is within the general skill of a worker in the art. Furthermore, the applicant is reminded that patentability is based upon the final product formed. Integral does not constitute a "one-piece" article. Once the strip is fastened or attached to the building panels, the two components are "integral". In reference to claims 6,11,27

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and 38, for at least one of the panels (21,23,25), the strip (33) is received in a countersunk groove, the locking groove (43) formed in a rear side of the panels (21,23,25). In further reference to claims 11, 27 and 38, tongues/lips (39) are bent from the strip (33) and press against the recess (43). Regarding claims 9, 25 and 36, the strip (33) is fixed to the panels (21,23,25) by means of a mechanical connection, the projections (39). Regarding claim 13, 29, 30, 34, 40 and 41, the strip (33) is flexible; however, TROTTER, Jr. is silent with regards to the material used to form the strip. Although TROTTER, Jr. is silent in this regard, it would have been obvious to one having ordinary skill in the art to select a known material on the basis of its suitability for the use intended as an obvious matter of design choice. For instance, metal materials are very well known for providing a device with a firm-type of flexibility. Thus if a tighter or more restricted connection is required, perhaps metal would be used to form the device; however, if less rigidity of the connection is needed, one skilled in the art might form the strip out of plastic in order to give the connection a less stable connection. In reference to claim 14, TROTTER, Jr. teaches a plurality of locking elements (39); however, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form that which was previously known as being formed in one piece, into several pieces, since it is within the general skill of a worker in the art to separate a one piece article into several pieces. Regarding claim 15, the locking element (39) consists of a plurality of spaced locking elements distributed about the length of the strip (33). In reference to claim 17, the joint arrangement of TROTTER, Jr. also includes a foam underlay (11), column 2, lines 65-66.

Allowable Subject Matter

Claim 23 is allowed.

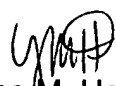
Claims 2, 7,8,10,16,18,19,26,28,32,37,39,42 and 43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909. The examiner can normally be reached on 6:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (703) 308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Yvonne M. Horton
4/11/05